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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,215	12/29/2000	Hyon Chang Lim	0630-1203P	6996

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EXAMINER	
DENNISON, JERRY B	
ART UNIT	PAPER NUMBER
2143	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/750,215	LIM, HYON CHANG	
	Examiner	Art Unit	
	J. Bret Dennison	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-9 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-9, and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

RESPONSE TO AMENDMENT

1. This Action is in response to the Amendment for Application Number 09/750,215 received on 27 October 2006.

2. Claims 1, 4-9,and 12 are presented for examination.

3. The prosecution of this case has been transferred to another Examiner. All corresponding communications regarding this case should be directed towards Examiner's contact information provided below.

Response to Arguments

Applicant's arguments filed 27 October 2006 have been fully considered but they are not persuasive.

Applicant's arguments include the failure of previously applied art to disclose "maximizing the number of sessions according to the operating situation of the server" [see Applicant's Response, pages 9-11].

Examiner respectfully disagrees.

Claims 1, 4, 9, and 12 recite the limitation "wherein the number of sessions according to the operating situation of a server for a multimedia service in a network environment is maximized." Any language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP 2106, section II, subsection C for specific examples. In the instant case, the limitation simply states that the number of sessions is maximized. The functionality of how this occurs is based on the preceding limitations of the claim. As explained in the previous Office Action, Examiner

notes that per Applicant's specification, p. 6-8, the server can effectively provide multimedia service at a "maximum" of the sessions based upon the capability negotiation as noted herein. As the prior art clearly disclosed each and every capability negotiation step, by default, the prior art would teach effectively providing multimedia service at the "maximum" of the sessions, per Applicant's definition of the same.

For arguments sake, assuming the limitation does hold patentable weight, Examiner would still not persuaded by Applicant's arguments. As shown in the present rejection, Lumelsky clearly disclosed shaping capacity of object resources for object replication at one or more server devices having available capacity, in which the shaping is based on demand statistics, and availability, thereby maximizing the number of sessions that can be made for these object resources, since after replicating them, they become more available, allowing an increased number of sessions to be created (Lumelsky, col. 15, line 58 through col. 16, line 5).

Therefore, while Lumelsky disclosed each and every capability negotiation step, Lumelsky also disclosed wherein the number of sessions according to the operating situation of a server for a multimedia service in a network environment is maximized, through shaping capacity as shown above.

Applicant's arguments with respect to Ellis are deemed moot in view of the following new grounds of rejection.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 4 recites an apparatus claim in the preamble of the claim. However there are multiple apparatuses (i.e. client, server) throughout the claim limitations. It is unclear to Examiner how the claim is an apparatus claim and not a system claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-9,and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumelsky et al. (U.S. 6,516,350).

5. Regarding claims 1, 4, 5, 7-9, and 12, Lumelsky disclosed a method of maximizing the number of sessions according to an operating situation of a server that has an application program, a client-network manager, a central processing unit, a memory, an operating system and a network for stably providing a multimedia information service to a client in a network environment in which the server and a plurality of clients are connected with each other and the server, (comprising an application program, an OS and a network connection – per pending claim 5), dynamically decides whether to provide or not provide a multimedia service sessions according to a request of a client, comprising:

a service requesting step in which one of the plurality of clients requests a multimedia service from the server (Lumelsky, col. 15, lines 32-40);

a capability negotiation step comprising

(1) evaluating resource use amount of a multimedia resource requested by one client (Lumelsky, col. 15, lines 58-67); (2) evaluating an available amount of server resources including a CPU and a memory of the server (Lumelsky, Fig. 10, col. 12, lines 26-52; col. 15, lines 32-67, and col. 16, lines 1-22); (3) evaluating an available amount of a bandwidth of a network connecting the server and the clients (Lumelsky, Fig. 10, col. 12, lines 26-52, col. 15, lines 32-67, and col. 16, lines 1-22); and (4) evaluating an available amount of a CPU and a memory of the one client (Lumelsky, Fig. 10, col. 12,

lines 26-52, col. 15, lines 32-67, and col. 16, lines 1-22), in which it is evaluated whether the server is to generate a new session to provide the multimedia service according to the request by the one client (Lumelsky, col. 15, lines 32-67, and col. 16, lines 1-22, Examiner notes that the generation of a new session by a server, for any particular client or number of clients, would have been obvious in light of the teachings of Lumelsky as a means by which any client(s) on the network would have access to any network resource(s) on request, per adaptive resource management, (col. 5, lines 7-10));

a service providing step in which the server provides the multimedia service to the one client through the capability negotiation (Lumelsky, col. 15, lines 32-67, and col. 16, lines 1-22); and

a service session refusal step wherein the server refuses to generate a new session if the allocated resources are not receivable even in one of the capability negotiation steps (1)-(3) (Lumelsky, col. 10, lines 35-45, While Lumelsky disclosed the combination of criteria makes the risk of service rejection minimal over time, the rejection of services still exists based on the criteria, including client resources, server resources, bandwidth, and media resources, col. 10, lines 15-30, and above cited portions);

wherein the number of sessions according to the operating situation of a server for a multimedia service in a network environment is maximized (Lumelsky, col. 15, line 58 through col. 16, line 5, Lumelsky disclosed shaping capacity of object resources for object replication at one or more server devices having available capacity, in which the

shaping is based on demand statistics, and availability, thereby maximizing the number of sessions that can be made for these object resources, since after replicating them, they become more available, allowing an increased n*umber of sessions to be created*). Claim 4 includes an apparatus with limitations that are substantially similar to claim 1. It is clearly shown in the above rejection that an apparatus performs the functionality of the claim. Therefore, claim 4 is rejected under the same rationale.

6. Regarding claim 6, Lumelsky disclosed the limitations, substantially as claimed, as described in claim 4, including wherein the server provides a text or a multimedia data to a client (Lumelsky, col. 15, lines 35-37).

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. B. D.
Patent Examiner
Art Unit 2143

JEFFREY PWU
PRIMARY EXAMINER